

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 6061 of 2008**

1. Government of Madhya Pradesh (now State of Chhattisgarh) through Collector, Raipur (CG)
2. Chief Engineer Mahanadi Jalashay Pariyojna, Sinchai Vibhag, Shankar Nagar, Raipur (Cg)
3. Sub Divisional Officer Mahanadi Mukhya Nahar, Upvibhag Kramank-1, Rudri Post Rudri, Tahsil-Dhamtari, Distt.-Raipur (Now Distt.-Dhamtari) (Cg)

---- Petitioners**Versus**

- Smt. Kachra Bai, W/o Siyaram Yadav, aged about 33 years, resident of Rudri, Post Rudri, Tahsil Dhamtari District Raipur (now district Dhamtari) CG

---- Respondent

For Petitioners	:	Shri Shashank Thakur, GA for the State
For Respondent	:	Shri Durgesh Goyal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****08/04/2016**

1. Challenge in this petition is to the award passed by the courts below, whereby the labour Court has directed for reinstatement of the workman with 50% back wages. The said award has been affirmed by the Industrial Court by order dated 31-01-02.
2. The workman was engaged by the Department of Water Resources on daily wages for a period of 13 years i.e. from 1983, as is evident

from the impugned award, however, the workman was removed from the service in August, 1996, therefore, he raised the industrial dispute, which was referred for adjudication to the labour Court.

3. According to the workman, he was removed without issuing any show cause notice or holding any enquiry nor any retrenchment compensation was paid on the date of disengagement.
4. It was the stand of the petitioner/State before the Labour Court that the workman was not working against sanctioned post nor he was engaged permanently, therefore, as soon as the requirement of employing a daily wager ceased, he was disengaged, hence, no right accrued in his favour to seek reinstatement.
5. At the end of enquiry, the Labour Court found that the workman had worked for continuous period of 240 days immediately preceding the date of disengagement, therefore, since he has not been offered the retrenchment compensation on the date of disengagement and there being violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947 ('the ID Act' in short) he is entitled for reinstatement with 50% back wages.
6. Order of reinstatement was passed on 8-9-2000 by the labour Court under the Chhattisgarh Industrial Relations Act and the appeal preferred before the Industrial Court was also dismissed on 31-1-2002. Pursuant to the award passed by the labour Court, the respondent workman has been reinstated and as thus remained employed for last about 14 years.

7. This petition has been filed in October, 2008 i.e. after delay of more than 6 & ½ years.
8. Considering the facts and circumstances of the case, the reasons assigned for condonation of delay and laches is found sufficient to consider the matter on merits.
9. Be that as it may, before her disengagement the workman had worked for about 13 years and thereafter for 14 years after reinstatement. Insofar as the payment of backwages is concerned, ordinarily a daily wager is not entitled to backwages because she is not appointed against the sanctioned post and is not otherwise holder of civil post. The daily wager is engaged as and when the work is available and the order of reinstatement has been passed by the Labour Court only on account of violation of the provisions of Sections 25-F or 25-G or 25-H of the ID Act, therefore, this Court is of the view that the Labour Court has committed serious error of law by awarding back wages to the extent of 50%.
10. For the foregoing, the writ petition is allowed in part. While refusing to interfere with the order of reinstatement, the other part of the award granting 50% back wages in favour of the workman is set aside. However, since there was no interim order in this petition, if the backwages has already been paid to the workmen, the same shall not be recovered from them. No order as to costs.

Sd/-

Judge
Prashant Kumar Mishra

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